

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

CATHRYN FULLER,)	
)	
)	
vs.)	No. 19-cv-00327-FJG
)	
FARMERS INSURANCE COMPANY, INC.,)	
)	
Defendant..)	

TRIAL ORDER

Currently pending before the Court is plaintiff's Motion for a Special Trial Setting (Doc. # 69). Plaintiff states that the parties are ready to try this cause and notes that the Court has been trying jury trials recently despite the COVID-19 pandemic. Plaintiff therefore requests that the Court set this cause for trial. The Court **GRANTS** plaintiff's Motion for a Special Trial Setting and establishes the following deadlines.

1. **TIMELINESS OF SUBMISSIONS.** The parties and counsel are advised that any filing or submission made after 5:00 p.m. will not be reviewed by the Court until the next business day.

2. **INDICES**

Counsel should note that the scheduling and trial order indices are provided for their convenience only. **All parties are directed to review the entire text of this order.** The schedules fixed herein will not be extended except for good cause shown and upon further written order of the Court.

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IT IS ORDERED that this cause be set for jury trial on the jury docket commencing January 4, 2021.

Counsel shall have the responsibility to maintain contact with the courtroom deputy Tracy Diefenbach at telephone number (816) 512-5376 regarding trial questions. All matters will be heard at the United States Courthouse, Courtroom 7C, in Kansas City, Missouri, unless otherwise notified by the courtroom deputy.

Pretrial teleconference will be set by future order.

1. STIPULATION OF ANY UNCONTROVERTED FACTS

A stipulation of any uncontroverted facts shall be filed no later than November 11, 2020. If no stipulated facts can be agreed upon, including facts related to the Court's subject matter or personal jurisdiction, the parties shall file a joint statement to that effect.

2. WITNESS LISTS

Each party shall file a witness list no later than November 11, 2020. The witnesses shall be listed in alphabetical order.

IN CAMERA WITNESS LISTS shall be filed simultaneously with each parties' witness list and shall include the subject matter that each witness will testify

about and the exhibits each witness will identify or use; the length of time needed for direct examination of each witness; and the order in which you propose to call each witness. You shall provide an **estimate of the amount of time it will take to cross-examine opposing parties' witnesses** within **five days** of their disclosure.

In camera submissions of witness lists **may be electronically filed under seal with leave of Court being waived**. *Pro se* litigants may alternatively submit their *in camera* witness lists by emailing the document to the courtroom deputy at TracyDiefenbach@mow.uscourts.gov or providing a paper copy to her. Faxed copies of *in camera* witness lists will not be accepted.

PLEASE NOTE that counsel may, if desired, file and serve the information detailed above instead of making a separate *in camera* submission.

3. **EXHIBIT LISTS**

Each party shall file an exhibit list no later than November 11, 2020. Each exhibit listed shall be pre-marked and numbered. If only a portion of an exhibit is to be offered, the portion to be offered shall be specifically identified. A copy of the exhibit index will be attached to the copy of the exhibit list.

A STIPULATION TO THE IDENTITY AND AUTHENTICATION OF EXHIBITS shall be filed no later than November 11, 2020. If no exhibits can be stipulated to, the parties shall file a joint statement to that effect.

4. **DEPOSITION DESIGNATIONS.**

a. **All parties** shall file any designation by page and line number, of any deposition testimony to be offered in evidence as a part of that party's case-in-chief in connection with such claim or claims no later than November 11, 2020.

b. **All parties** shall file objections to proposed deposition testimony designated by any other party pursuant to subparagraph 4(a) no later than November 18, 2020.

c. **All parties** shall file a designation, by page and line number, of any

deposition testimony to be offered as cross-examination to deposition testimony designated by other parties pursuant to subparagraph 4(a) no later than November 18, 2020.

d. **All parties** shall serve and file any objections to proposed deposition testimony designated by any other party pursuant to subparagraph (4)(c) no later than November 25, 2020.

e. **Deposition designations, objections and counterdesignations shall be properly marked (color coded) and submitted to the Court 30 days before trial.**

5. INSTRUCTIONS

All proposed instructions that the parties believe appropriate shall be taken from or drawn in the manner of Model Civil Jury Instructions for the Eighth Circuit. The Missouri Approved Instructions (MAI) may be used if there is no Eighth Circuit instruction available. An original (without sources) and one copy (with sources) of all said instructions shall be emailed to the courtroom deputy in Word format at TracyDiefenbach@mow.uscourts.gov and the source copy filed on ECF no later than November 18, 2020. If a non-MAI instruction is proposed (because none of the authoritative sources requested above have instructions on this subject), the source of such instruction should be provided. **The Court expects to receive jointly agreed to instructions from the parties. Separate instructions are appropriate only where the parties cannot agree upon a specific instruction. In that instance, opposing counsel shall state in writing the reason for the objection with authority cited as well as an alternative instruction.**

6. VOIR DIRE QUESTIONS

All parties shall serve and file all proposed voir dire questions no later than November 18, 2020.

7. OBJECTIONS TO PROPOSED VOIR DIRE AND PROPOSED

INSTRUCTIONS

All parties shall file their objections to any proposed voir dire question and/or proposed instruction no later than November 25, 2020.

8. MOTIONS IN LIMINE, TRIAL BRIEFS

All parties shall file all motions in limine with supporting suggestions no later than November 30, 2020. Any desired trial brief shall be filed no later than November 30, 2020.

9. RESPONSES TO MOTIONS IN LIMINE AND RESPONSES TO TRIAL BRIEFS

All parties shall file and serve responses to earlier filed motions in limine and responses to earlier filed trial briefs no later than December 7, 2020.

10. The Court may place additional time limits on opening statements, and direct- and cross-examination of all witnesses.

11. In furtherance of the efficient use of judicial resources, the following rules of Court will be imposed.

a. All legal issues must be raised in advance of trial by written motions and in accordance with the scheduling order of this Court.

b. Motions will not be heard during trial without a strong showing that counsel could not, by due diligence, have raised them sooner.

c. Motions for judgment as a matter of law submitted under Rule 50 shall be filed with the Court as soon as possible but no later than the night before the anticipated completion of testimony.

d. Testimony will not be interrupted to deal with evidentiary matters that could have been heard in advance of trial. The Court will consider those matters during recess, at noon break, or at the end of the day. Counsel should be prepared with written authority for their position.

e. Witnesses who will be testifying from exhibits or about exhibits should review them immediately prior to their examination.

PLEASE NOTE that a witness not listed in accordance with this order will not be permitted to testify, except for good cause shown and with leave of Court; and that an exhibit not listed or deposition testimony not designated in accordance with this order will not be received in evidence, except for good cause shown and with leave of Court. All witnesses shall be instructed to be available for testimony as of the first day of trial scheduled herein, should the Court so require.

IT IS SO ORDERED.

Date: October 30, 2020
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge